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MONTANA STATE GRAZING DISTRICTS

Handbook

3RD REVISED EDITION

MONTANA GRASS CONSERVATION COMMISSION
LEWISTOWN, MONTANA

1960

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PREFACE

The Grass Conservation Commission wishes to take this opportunity to thank the Montana Association of State Grazing Districts and the many permittees, directors, agencies and attorneys who have made this third revision of the Montana State Grazing District Handbook possible. Without the cooperation and efforts of these interested people the successful operation of our state grazing district program would hardly be possible.

The Commission is fully aware of the many pitfalls and hazards that can befall a district in perfecting its organization, but we believe the worst is now over and the districts' operation in the future will be that of maintaining control of their lands and encouraging sound range practices among their members. It is our hope that this 3rd revised edition of the Handbook will be of even more assistance in the districts' operation than the previous editions were. For this book to be of maximum effectiveness, however, it is necessary that it be kept available and referred to in making decisions of the district. Range administration has become increasingly dependent upon the maintenance of adequate records and sound decisions based upon established regulations in order that the area may be administered with fairness to all.

In this edition, a syllabus of past Commission decisions has been prepared which provides for those interested a brief account of how the Commission has ruled on matters pertaining to that particular section of the law when such matters were presented to it on appeal. This may be found following each section of the Grass Conservation Act. The decisions from which these have been extracted may be found in the files of the Commission and are open for examination by any interested parties should further clarification be necessary in regard to a particular ruling.

We believe the group tenure principal has merit, bringing about some semblance of local control of grazing problems. However, unless the members of the districts keep themselves informed and participate in the operation thereof, their districts will eventually cease to function properly and some more effective means of administration will be resorted to.

MONTANA GRASS CONSERVATION COMMISSION

Lewis C. Archambeault, Chairman
Fort Peck, Montana

Clyde Sandon, Vice-Chairman
Ekalaka, Montana

William J. Cotter
Malta, Montana

Leo Lund
Fallon, Montana

Cleon Graves
Roundup, Montana

Mons L. Teigen, Secretary
Lewistown, Montana

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QUESTION AND ANSWER SECTION

1. Q. What is a cooperative state grazing district?

   A. It is a non-profit, cooperative association of livestock operators organized under a Montana statute which specifically empowers them to lease or purchase grazing lands, to develop and manage district controlled lands and to allocate grazing preferences among members and non-members.

2. Q. How is a district formed?

   A. Three or more persons who own or control commensurate property and are livestock operators within the area may file a written request to the State Grass Conservation Commission. This request must be accompanied by a plat showing the proposed boundaries of the area. See Sec. 46-2309 RCM '47. The Secretary of the Commission can also furnish additional information and advice.

3. Q. What is the general purpose of a district?

   A. To provide for the conservation, protection, restoration, and proper utilization of grass, forage and range resources of the State of Montana, to provide a means for cooperation with various governmental agencies having jurisdiction over the Federally owned lands, to permit the setting up of a form of grazing administration which will aid in the unification or control of all grazing land within the state where the ownership is diverse and the lands intermingled and to provide for the stabilization of the livestock industry and the protection of dependent commensurate ranch properties. See Sec. 46-2301 RCM '47.

4. Q. May a district own land?

   A. Yes, state districts are specifically empowered by law "to acquire forage producing lands by lease, purchase, cooperative agreements, or otherwise . . ." Lands owned by a state district are still subject to taxation the same as if owned by an individual. See Sec. 46-2312 RCM '47.

5. Q. May a district borrow money?

   A. Yes, and if necessary, the physical assets of the district may be mortgaged to provide for operation and development, provided that at least 80% of the permittee members consent in writing to such borrowing and such borrowing approved by the Montana Grass Conservation Commission. See Sec. 46-2312 RCM '47.

6. Q. What is an assessment?

   A. An assessment is levied for a particular purpose and can only be levied with the consent in writing of 80% of the permittee members. It must be levied on an animal unit basis and is usually used to acquire lands by purchase or for the purpose of constructing improvements. See Art. VII Sec. 5 Std. By-Laws.

7. Q. What are grazing fees?

A. Grazing fees are an annual charge based upon the number of animal units permitted and are used in paying leases, rentals, operating expenses and state fees. See Sec. 3 Art. VII Std. By-Laws.

8. Q. Are the district's records open for inspection by the membership?

A. Yes, the Secretary-Treasurer is required to permit members to inspect his books during any reasonable business hour. See Sec. 3F Art. VI Std. By-Laws.

9. Q. Are the grazing district's financial affairs audited frequently?

A. Yes, the districts are required by law to have an audit made of their books at the close of the fiscal year by a competent person approved by the Montana Grass Conservation Commission. A copy of the audit is submitted to the Commission. See Sec. 46-2307 RCM '47, also Sec. 5 Art. V Std. By-Laws.

10. Q. What is a grazing preference?

A. The law defines a preference as a right to obtain a grazing permit from a state district. This right is stated in terms of animal units. Preferences are attached to commensurate property and once they are established they do not change from year to year. Preference holding members have the voting privilege in a state grazing district. See Secs. 46-2302, 2322, 2314 RCM '47.

11. Q. How are preferences established?

A. When a district is organized, preferences are given first to members owning or controlling dependent commensurate property and if there is grazing capacity left over, members owning or controlling commensurate property shall have the preference. See Sec. 46-2320 RCM '47.

12. Q. What is "commensurate property" and "dependent commensurate property?"

A. (a) Commensurate property is property which furnishes feed for livestock during the months not defined as the grazing period. Commensurability is measured in terms of animal-unit-months of feed. (Hay, grains, and winter range.)

(b) Dependent commensurate property is property which has been used in connection with the range controlled by the state grazing district for five years just prior to the formation of the district. (In districts organized prior to 1945, members were preferred who had used the range for any three years or any two consecutive years of the 5 year period immediately preceding June 28, 1934.) See Sec. 46-2302 RCM '47.

13. Q. When are preferences distributed?

A. Within one year after the formation of a state grazing district. If a livestock operator fails to make application for a preference within one year after the district is formed he cannot qualify for a

preference. However, if there is excess grazing capacity a non-member might be given a temporary permit, and if he uses a temporary permit for any four years out of a five year period in connection with commensurate property, the district may grant him membership and a preference in the district. See Sec. 46-2320 RCM '47.

14. Q. Are there any other methods by which preferences in state districts may be established?

A. Yes, by certification by the Bureau of Land Management to the extent that Federal lands are involved. See cooperative agreement.

15. Q. Is a member who holds a preference in the district required to obtain a grazing permit each year?

A. Either an annual or a term permit must be held as evidence of grazing privileges granted by the district. Normally permits are issued annually due to fluctuations in the operator's livestock numbers, however a term permit could be issued for a longer period in the discretion of the district. See Sec. 46-2326 RCM '47.

16. Q. Does a livestock operator need a permit if he is allotted a certain area in the district for his own use?

A. Yes, the district does not lease the land to the permittee, it only sells him the right to graze the land each year in terms of animal units. See Sec. 46-2326 RCM '47.

17. Q. Does a livestock operator need a permit to graze livestock on his own privately controlled lands within the exterior boundaries of a state grazing district?

A. Yes; so long as such livestock have access to other lands which are owned or controlled by the district or its members.

18. Q. Does the district have the power to control the number of livestock grazed?

A. Yes. Although preferences do not change, the number of livestock to be run may vary from year to year due to changes in carrying capacity of the range. Permittees who run livestock in excess of their permits are declared by the law to be in trespass. See paragraph 4, 46-2312 RCM '47.

19. Q. Must a preference holder use his range each year?

A. No, the by-laws of state grazing districts allow the member to obtain a non-use permit for as many as three years in succession upon payment of a fee of 10% of the normal grazing fee of that year if the district can make use of that range. If a member holding an individual allotment wishes to reduce his stocking rate to rest the range, he will, of course, have to pay the full fee on the carrying capacity as determined by the district. See Sec. 1 Art. XII Std. By-Laws.

20. Q. What happens to a preference when control of commensurate property changes hands?

A. Preferences are attached to commensurate property and when control of commensurate property changes hands, the preference changes with the land, providing, of course, the new owner or lessee pays the regular fees. Any preference may be revoked if the member fails to pay fees or assessments or refuses to abide by the rules and regulations laid down by the district. See Sec. 46-2322 RCM '47.

21. Q. May a preference be transferred from one base property to another?

A. Yes. Upon application and after a hearing held before the Board of Directors and approval of the Grass Conservation Commission. There must be sufficient commensurability and the applicant must own or control both properties. See Sec. 46-2322 RCM '47.

22. Q. Is the real mortgage holder or owner protected in case a leased or mortgaged base property is threatened with loss of preference through permittee's failure to pay fees or abide by regulations?

A. Yes, Sec. 1 of Article XII of the district's by-laws provides that in such cases the real mortgage holder or owner be notified and given 60 days in which to make compliance; provided that he has filed a statement with the board of directors indicating the commensurate land he has an interest in. See Sec. 46-2322 RCM '47.

23. Q. What happens when a member buys or rents land formerly controlled by a state grazing district?

A. The established grazing capacity of the land acquired by the member is treated as self-furnished range and deducted from the amount of grazing furnished him by the district.

24. Q. What happens when a member or non-member buys or leases land within the boundaries of a state district which is not controlled by the district?

A. In such cases the person acquiring ownership or control of such land shall have the right to obtain a grazing permit from the district determined by the carrying capacity of the land. In the case of a member, this shall be in addition to his preference. See Sec. 46-2329 RCM '47.

25. Q. Does a grazing district member have any recourse if he feels that action taken by the board of directors of his district does not conform to the by-laws or the grass conservation act?

A. Yes. Appeals may be taken from the decision of any state grazing district to the Grass Conservation Commission and an appeal from the decision of the Commission may be taken to the

District court wherein a portion of the land within the grazing district lies. The initial procedure is to get a decision from the board of directors, on which to appeal. See Sec. 46-2308 RCM '47.

26. What is the Montana Grass Conservation Commission?

A. It is a five member board appointed by the Governor to have general supervision of the cooperative state grazing districts. (Their powers are outlined in Sec. 46-2307 RCM '47.) The method of appointment is as follows: The Governor giving full consideration to large and small operators, shall appoint one representative member and livestock operator, who is either an officer or a permittee member of an organized state grazing district from each of the following:

(1) One member from the Montana Stockgrowers Association.
(2) One member from the Montana Woolgrowers Association.
(3) One member from the County Commissioners Association.
(4) One member from one of the cooperative state grazing districts.
(5) One member representing the general public familiar with the livestock industry.

27. Q. Where is the office of the Montana Grass Conservation Commission located?

A. Address all correspondence with the Commission to: Secretary, Montana Grass Conservation Commission, Lewistown, Montana.

28., Q. What are the duties of the Secretary of the Commission?

A. The Commission is required by law to appoint a Secretary. The Secretary is the executive officer of Commission and is controlled and directed by the rules and regulations established by the Commission. See Sec. 46-2305 RCM '47.

29. Q. May a district change its boundaries?

A. Yes; with the consent of a majority of the members in the affected area and the approval of the Commission. Whenever the boundaries of a state district are changed a plat indicating such change must be filed with the County Clerk or Clerks and also with the Commission. See Sec. 46-2312 RCM '47.

30. Q. Can a state district's by-laws be amended?

A. Yes, they may be amended in any regular annual meeting or special meeting called for the purpose by a 2/3 vote of the permittee members present. No such amendment shall be effective until approved by the Commission. See Sec. 1 Art. IX Standard By-Laws.

31. Q. Who may vote at district meetings?

A. (a) Permittee members only shall be entitled to vote on all issues submitted to a vote of the membership. All members who

possessed preferential grazing permits during the preceding grazing season or who possess such a permit at the time of voting shall be designated as permittee members.

(b) An agent may become a permittee member for any person, association, partnership or corporation in place of his principal. The agent's qualifications, obligations and privileges shall be measured by those his principal would have had if he had elected to become a member.

(c) No agent and his principal shall both be members of the district unless the agent has individual qualifications separate and independent of those of his principal.

(d) No member shall have more than one vote.

(e) Voting by proxy shall not be permitted.

See Sec. 46-2314 RCM '47.

32. Q. What does it cost to become a member of a district?

A. The membership fee in any state grazing district may not in any case exceed five dollars $(5.00). See Sec. 46-2310 RCM '47, also see following question.

33. Q. Does a permittee member receive a share of the surplus assets of a district?

A. Whenever a state district shall possess reserves and physical assets, the value of which are greater than its liabilities and a permittee member loses his grazing preference, he shall be entitled to receive his proportionate share of the value of such excess from the same district. The value shall be determined by the annual accounting of the state district.

Whenever a new member shall receive a grazing preference, he shall as a condition of receiving such preference pay the state district the value of the equitable interest in the physical assets and reserve fund which accrues to him by virtue of such membership. See Sec. 46-2324 RCM '47.

34. Q. Does a grazing district prevent new operators from getting started?

A. No. New operators are entitled to the preference as already established on their dependent commensurate or commensurate property, the same as the former operator. It should be noted however, that any operator acquiring property not classed as dependent commensurate or commensurate property would not be entitled to a preference in the district. Sec. 46-2322 RCM '47.

35. Q. May a state district impound animals found in trespass and hold same for damages?

A. Yes. The Grass Conservation Act provides that within 72 hours after impounding such animals, the owner or person in charge of said livestock be notified by registered mail of the location and

number of livestock so held and the damages claimed to date, after which he is given 10 days to pay the damages claimed and take said livestock away. At the end of 10 days the unclaimed animals are turned over to the sheriff for sale at public auction.

Note: For a more detailed account of trespass procedure see Section 46-2326 RCM '47.

36. Q. Can a member of a district be found in trespass?

A. Yes. No one is allowed to run livestock within the boundaries of the district without first obtaining a permit. If a member runs livestock within the district in excess of his permit or without a permit he would be subject to trespass. See Sec. 46-2326 RCM '47.

37. Q. May an individual member of the district impound animals and recover trespass damages?

A. No, not unless he is acting as an agent of the district, with express permission of the board of directors. Section 46-2326 RCM '47 gives the state district or its duly authorized agent only, the right to impound and recover damages.

38. Q. Are there any other penalties for trespass within state districts?

A. Yes.

(a) The owner or person in control of trespassing livestock shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $10.00 nor more than $500.00 and in addition shall be liable for all damages sustained thereby.

(b) Pursuant to the terms of the agreements whereby Federal lands are administered by the districts, the Federal government reserves the right to protect its lands from trespass by appropriate civil action if necessary.

(c) Some districts have brought civil action against trespassers and have obtained restraining orders.

(d) Most districts have enacted provisions in their by-laws providing for a penalty of not less than $1.00 per animal unit in trespass for the first offense and not less than $5.00 per animal unit in trespass for the second offense.

By-Laws

The following is a standard set of by-laws originally adopted by all state grazing districts when organized. Since that time some of the districts have amended theirs in various ways. However such amendments have generally pertained to fees and methods of voting, so the general contents largely remain unchanged.

ARTICLE I

QUALIFICATIONS FOR MEMBERSHIP; FEES; VOTING

SECTION 1. Membership:

(a) Membership in the District is limited to persons, partnerships, corporations and associations engaged in the livestock business who own or lease forage producing lands within or near the district except that the agent of any persons, associations, partnerships or corporations entitled to membership in the district, may become a member in place of his principal. If any agent becomes a member his qualifications for membership and his obligations to and the privileges in the district shall be measured by those his principal would have had if he had elected to become a member. No agent and his principal shall both be members of the district unless such agent has individual qualifications for membership which are separable from and independent of those of his principal. Permittee members only shall be entitled to vote on all issues submitted to a vote of the members. No such member shall have more than one vote. Voting by proxy shall not be permitted. All members who possessed preferential grazing permits during the preceding grazing season or who possess such a permit at the time of voting shall be designated as permittee members.

When any member shall dispose of a part of the lands or leases owned by him so that another shall become the owner of such lands or leases and acquire right to membership, then the rights and interests involved shall be determined by the Directors of the State District with the approval of the Commission.

(b) **Membership Fees:** Any applicant qualified for membership under paragraph (2) of Article I of these By-Laws may become a member by filing an application with the Secretary-Treasurer of the District and by paying a membership fee of five dollars ($5.00). No refunds of membership fees may be made except to applicants not qualified for membership.

(c) **Certificate of Membership:** This District, by its Board of Directors, shall issue a certificate of membership to each member. Such certificate shall be merely prima facie evidence of the membership of the member to whom it was issued and shall not be transferable. Each certificate of membership shall contain a provision stating that it is not transferable.

(d) **Voting at First Organization Meeting:** All persons qualified for membership as outlined above in subsections (a), (b) and (c) of Article 1, shall be entitled to vote only at the first organization meeting of the

District. Meetings held for reorganization to comply with the new Montana Grass Conservation Law shall not be considered a **First Organization Meeting.**

ARTICLE II

MEETINGS

SECTION 1. **Annual and Special Meetings:** Annual meetings of this District shall be held at....., in..... Montana, on the.....day of.....of each year. Special meetings shall be held at such times and places as may be designated by the President or a majority of the Board of Directors. Written notices of all meetings of the District shall be sent to the last known address of each member by mail by the Secretary-Treasurer at least Fourteen (14) days before the date of such meeting. Notices covering special meetings shall state the purpose for which said meeting is called. No business shall be transacted at a special meeting except as stated in the notice calling the same unless all members in good standing present at the meeting give their unanimous consent thereto in writing. In case of emergencies, special meetings may be called upon less notice by notifying each member in good standing in person or by telephone.

SECTION 2. **Quorum:** No vote of the members shall be taken at any meetings unless a quorum of the members entitled to vote upon the issue is present. A quorum shall consist of.....members who are in good standing at the time of the meeting.

ARTICLE III

ELECTION OF DIRECTORS

SECTION 1. **Election:** The Board of Directors shall consist of five permittee members of the District. For the purpose of electing a Board of Directors the permittee members shall be divided into five classes, which classes shall be determined by dividing the total number of preferences in the District by the number of Directors to be elected, then commencing with the permittee member holding the smallest number of preferences, the permittee members shall be grouped into the first class by adding to the smallest, the next smallest and, by proceeding in this manner, fill the first class which first class shall consist of approximately twenty per cent (20%) of the preferences. Repeating this grouping by taking the next remaining permittee member with the smallest preference and adding to that the next smallest remaining until the second class is filled, which second class shall consist of approximately twenty per cent (20%) of the preferences and by repeating this grouping until each of the five classes are filled, then each class shall elect from the permittee members of the district its choice of one Director.

SECTION 2. **Term of Office: Vacancies:** The Directors so elected shall immediately after being so chosen, determine by lot which shall serve for one, two, three, four and five year terms and thereafter the Directors shall be elected for five year terms. A vacancy on the Board from whatever cause shall be filled from the class in which the vacancy

occurred by the balance of the Board of Directors to serve until the next annual election at which time an election shall be held in the regular manner to fill the vacancy for the unexpired remainder of the term.

SECTION 3. **Quorum:** Three Directors shall constitute a quorum in any meeting, but concurrence of at least **three** directors shall be required before any action taken by the Board shall be binding on the District. A Director is disqualified from voting upon any issue involving his preference permit, or equitable interest in the assets of the District.

SECTION 4. **Notice:** Notice of Directors' Meetings shall be mailed at least five (5) days prior to the date of the meeting excepting meetings may be held at any time upon consent of all directors not in attendance at such meeting.

ARTICLE IV

SECRETARY AND TREASURER, HOW CHOSEN, COMPENSATION AND SALARY OF DIRECTORS

SECTION 1. **Secretary and Treasurer:** The Secretary and Treasurer shall be chosen and his compensation set by the Board of Directors.

SECTION 2. **Compensation of Directors:** Members of the Board of Directors shall receive no compensation for their services as Directors but may be reimbursed for their actual expenses while so employed. All bills for such expenses must be itemized and no allowance for car hire shall exceed Four cents (4c) per mile for each car so used.

ARTICLE V

DUTIES OF DIRECTORS

SECTION 1. **General Duties:** The Board of Directors shall manage the business of the District, exercise its powers, conduct its affairs and make such rules and regulations not inconsistent with those By-Laws or of the laws of the State of Montana, to properly carry out the purposes of the District.

SECTION 2. **Employees to be Bonded:** The Board of Directors shall require the Secretary-Treasurer and all other officers, agents and employees charged by them with the responsibility for the custody of any funds or property of the District, to furnish bond of sufficient surety for the faithful performance of their official duties. The premium on such bonds so furnished shall be paid by the District.

SECTION 3. **Directors Meetings:** The Board of Directors shall meet immediately after the annual election and elect from their number a President and Vice-President. The Directors shall call at least one other meeting of members annually at a time and place chosen by the Board provided that the members of the District be given ample notice thereof.

SECTION 4. **Special Meetings:** Special meetings of the Board of Directors may be called at any time by the President or by a majority of the Board.

SECTION 5. **Auditing:** The Board of Directors shall require the Secretary-Treasurer to keep an accurate set of books, (the Grass Con-

servation Commission may prescribe uniform books for this purpose), and to have the books of the District audited at the expense of the District immediately following the close of the fiscal year and prior to the annual meeting of the members, such audit to be by a certified public accountant or other competent person approved by the Grass Conservation Commission.

ARTICLE VI

DUTIES OF OFFICERS

SECTION 1. **The Duties of the President:** The President shall:

(a) Preside over all meetings of the District and of the Board of Directors.

(b) Sign as President with the Secretary-Treasurer all certificates of membership, notes, deeds and other instruments on behalf of the District.

(c) Call special meetings of the members of the District and of the Board of Directors.

(d) In co-operation with the Secretary-Treasurer direct the affairs of the District, subject to the control of the Board of Directors.

(e) Perform all other acts and duties usually required of the executive and presiding officer.

SECTION 2. **Duties of Vice-President:** The Vice-President shall perform all acts and duties of the President in his absence or inability to act.

SECTION 3. **Duties of the Secretary-Treasurer:** The Secretary and Treasurer shall:

(a) Keep a complete record of all meetings and conduct all correspondence of the District and of the Board of Directors.

(b) Sign as Secretary and Treasurer with the President all certificates of membership, notes, deeds and other instruments on behalf of the District; sign all checks alone as Secretary and Treasurer.

(c) Serve all notices required by these By-Laws.

(d) Receive and disburse all funds and be the custodian of all property of the District. All disbursements shall be evidenced by a receipted, itemized statement.

(e) Keep a complete record of all business of the District and make a full report of all matters and business pertaining to his office to the Board of Directors at any time requested and to the members at their annual meeting; make all reports requested of the District by the Secretary of the Grass Conservation Commission.

(f) Permit members to inspect his books during any reasonable business hours.

(g) Perform such other duties as may be required of him by the District, the Board of Directors and these By-Laws.

ARTICLE VII

FINANCES

SECTION 1. **Fiscal Year:** The fiscal year shall start on the first day of January and end on the thirty-first day of December.

SECTION 2. **Annual Statements:** Follow the instructions of Section 5 of Article V of these By-Laws.

SECTION 3. **Grazing Fees:** The amount of grazing fees shall be set by the Board of Directors not later than the first day of March of each year, terms and conditions of payment to be set by the Board, provided, however, that no sum in excess of One Dollar and Sixty Cents ($1.60) per animal unit for an eight (8) month grazing period, which sum shall include the fee imposed by the Montana Grass Conservation Commission, shall be set unless approved by the State Grass Conservation Commission and properly authorized by the permittee members of the District at a regularly called annual or special meeting.

SECTION 4. **Operating Expenses:** In no one fiscal year shall the Board of Directors authorize the expenditure of an amount in excess of ten per centum of the gross amount collected during that year from grazing fees, for the ordinary administrative expenses of conducting the affairs of the District. The ordinary administrative expenses of the District shall include such items as expense for car hire allowance of Directors, salary of the Secretary-Treasurer, stamps, stationery, other office supplies and expense, State fees, and all other minor items not properly chargeable to the lease of or control of range.

SECTION 5. **Assessments:** An assessment is and shall be separable from and independent of grazing fees. Grazing fees are an annual charge based upon the number of animal units grazed or range utilized during the regular grazing period by a permittee member. An assessment shall be for a particular purpose and only levied with the consent in writing of eighty (80%) per centum of the permittee members of the District.

SECTION 6. **Equitable Interest of Members in District Assets:** Section 24 of Chapter 208, Laws of the Montana Twenty-Sixth Legislative Session shall govern.

SECTION 7. **District as Agent:** The District may act under power of attorney as agent for any member or members for the purpose of acquiring range by lease.

ARTICLE VIII

GRAZING PREFERENCES

SECTION 1. **How Determined, Owned and Cancelled:** Sections 20, 21 and 22 of Chapter 208, Laws of the Montana Twenty-Sixth Legislative Session shall govern.

ARTICLE IX

AMENDMENTS

SECTION 1. **How Done:** These By-Laws may be amended in any regular annual meeting or special meeting called for the purpose by a two-thirds vote of the permittee members present. The only notice of such meeting shall be that required under Article II of these By-Laws; voting to be by written ballot and no such amendment shall be effective until approved by the Montana Grass Conservation Commission.

ARTICLE X

USE OF RANGE

SECTION 1. **By Members:** No member shall turn stock upon the range until granted a permit or sub-lease for the grazing period. The Board shall not issue a permit or sub-lease to any member until arrangements statisfactory to the Board have been made covering payments of all grazing fees.

SECTION 2. **Penalties:** Members owning or in control of livestock found in trespass within the District may be assessed a penalty of not less than One Dollar ($1.00) per animal unit in trespass for the first offense and not less than Five Dollars ($5.00) per animal unit in trespass for the second offense.

ARTICLE XI

COMMENSURATE RATING

SECTION 1. All determinations of commensurability, dependent commensurability, or carrying capacity shall be made by the Board of Directors. The Board may co-operate with Federal, State and County departments or agencies in making such determinations. For the purpose of these By-Laws, the carrying capacity of any land shall be the number of animal units such land can reasonably carry during the established grazing period, and the commensurability of any land or farm or ranch unit shall be the number of animal units for which it can normally provide food during other than the established grazing period.

SECTION 2. Commensurate rating will be based on the actual forage production, both cultivated and native, of the base property.

SECTION 3. The dependent commensurability of each member's farm or ranch unit shall be classed as dependent as is necessary to support the animal units for which such farm or ranch unit has "prior use." (The dependent commensurability of any farm or ranch unit will then be numerically equal to either the commensurability or the prior use of such unit, depending upon which is the smaller.)

SECTION 4. A determination shall be made of the average number of animal units which were grazed within the District in connection with each member's farm or ranch unit during the period from 1929 to 1934, and in accordance with the Federal Range Code. Such determination will hereafter be referred to as the "Prior Use" of such farm or ranch unit.

ARTICLE XII

NOTICE TO PERMITTEE MEMBERS, MORTGAGEES OR OWNERS

SECTION 1. If for any reason it should become necessary for the District to discontinue in the whole or in part, the further use of the range by a permittee member through non-compliance with rules, regulations, by-laws or otherwise, the matter will be referred to the real mortgage holder or the land owner of the permittee who may make compliance within sixty days and retain such permit or sub-lease with

the commensurate land, provided that the said mortgagee or owner files with the Board of Directors of the District a statement indicating the commensurate land upon which he holds the mortgage or of which he is the owner.

ARTICLE XIII

The following section is used under Paragraph 4 of Section 12, Chapter 208 of the Montana Twenty-Sixth Legislative Session.

SECTION 1. **Non-Use Permits:** Whenever a permittee member, unable to utilize all of his grazing preference in any one year shall, on or before February First of that year, notify the Secretary-Treasurer of the District of his application for a non-use permit and the District is able to utilize this range advantageously, the non-use shall be granted upon payment by said applying permittee of a fee of ten per centum of the normal grazing fee of that year. If the District is unable to utilize this range, they shall permit the applying member to fill the preference with outside stock for that season. If both are unable to utilize the range, the non-use shall be granted upon payment by the applying member of the actual cost of the unused preference to the District for such season. Such non-use shall not be used to exceed three (3) consecutive years, however in exceptional cases of valuable dependent commensurate properties the Board may grant one or more additional years after having obtained the consent of such action from the Montana Grass Conservation Commission.

ARTICLE XIV*

RULES, REGULATIONS AND SCHEDULES FOR COMMENSURATE RATING

SECTION 1. **Commensurate Rating:** Commensurate properties needing range for the proper use will be judged using the following schedules:

Exhibit A—Classification of Lands.

Exhibit B—Yields.

Exhibit C—Food requirements per A.U.M.

SECTION 2. **Winter Grazing: Usual customs will be respected,** but any permit for a period of more than eight months must be proportionately reduced to the longer period.

SECTION 3. **Stock Trails and Crossings:** Where County roads are not available or are not of sufficient width to permit normal trailing of livestock, the District shall provide either stock trails or crossing privileges, or see that agreements are perfected to permit members' stock to cross, where necessary, in normal movements. Proper charge should be made for the same on a basis of benefits to permittee and damage to member crossed and such charges shall be credited to the permittee of the allotment so crossed.

* This Article (Art. XIV) has not been adopted by all Districts.

SECTION 4. **Carrying Capacity:** As soon as full commensurate surveys are complete and the maximum carrying capacity has been determined, ten year permits may be issued. However, when the carrying capacity becomes reduced, all members shall take proportionate reduction if they range in common, or each permittee shall make proportionate cut within his allotment, where allotments have been made, pro rata to the amount of District range he enjoys to the total of his allotment.

SECTION 5. **Non-member Owners of Private Lands:** Owners of private range lands within the exterior boundaries of the Grazing District desiring to run stock on their privately owned lands shall be allowed, when proper application has been made to the Secretary-Treasurer of the District, to run the number of stock such lands will carry for the grazing season based on the same schedule of carrying capacity for other lands used in common therewith and such non-member owner shall, by waiving exclusive use of his own lands, be permitted, so long as he abides by all rules, regulations and requirements of permittee members of the district, to run this number of stock with the other permittee member or members in his immediate area, or in case of individual allotments, with that individual permittee in his allotment.

SECTION 6. **Bulls:** Each livestock operator, whether a member or a non-member, shall as a condition to his right to a permit provide one registered bull, acceptable to the grazing District if the stock are permitted in common, or acceptable to the District and the individual permittee member using the individual allotment, for each 30 head of cows or heifers to be bred.

SECTION 7. Rules and Regulations laid down to the District by any State or Governmental Agency relative to the use of their lands must be respected by all members of the district or non-members when such are temporarily permitted within the District. No members shall bid competitively against the District for leases on grazing lands where range is used in common, or against a member within that member's range allotment, nor shall he at any time exceed his permitted number of livestock.

ARTICLE XV

SALE OR LEASE OF COMMENSURATE PROPERTY

SECTION 1. Preference Permits shall be attached to the dependent commensurate property and shall follow such dependent commensurate property through its sale or its lease, so long as such preference be in good standing.

SECTION 2. In event of the sale or lease of a part of any dependent commensurate properties, and the owner and buyer or owner and lessee are unable to agree on a suitable division of the preferences, the Board of Directors of the District shall make such determination.

Grass Conservation Act

CHAPTER 23

Revised Codes of Montana 1947

GRASS CONSERVATION — GRAZING DISTRICTS

Section 46-2301. Grass conservation act—cooperation with Taylor grazing act.
46-2302. Definitions
46-2303. Montana Grass Conservation Commission — Membership and terms.
46-2304. Annual and special meetings.
46-2305. Secretary-compensation.
46-2306. Compensation of members—auditing and payment of claims.
46-2307. Powers of commission — state districts and grazing associations.
46-2308. Appeals from decisions of state district to commission—from commission to district court.
46-2309. Incorporation of state districts.
46-2310. Articles of incorporation, contents.
46-2311. Map or plat of district to be filed.
46-2312. Powers of state districts.
46-2313. Powers and duties of directors.
46-2314. Membership in district.
46-2315. By-laws.
46-2316. District must lease available state land.
46-2317. Commission to advise board of land commissioners and county commissioners.
46-2318. Incorporated grazing associations must conform to this act—amending articles of incorporation.
46-2319. Mizpah Pumpkin Creek grazing district.
46-2320. Distribution of grazing preferences.
46-2321. Application for grazing preferences.
46-2322. Grazing preferences appurtenant to dependent commensurate property and commensurate property and method of transferring preferences to other lands.
46-2323. Subsequent lessees to compensate district for range improvements.
46-2324. Permittee member receive share of surplus assets, when.
46-2325. Dissolution of district.
46-2326. Running livestock at large or in herd without permit forbidden—liability of owner—penalty—procedure—release to owner.
46-2327. Remedies are supplemental.
46-2328. Saving provision relative to those in armed service.
46-2329. Grazing permits to owners of land not controlled by district.
46-2330. State grass conservation fund.
46-2331. Fees may be imposed by commission against districts.
46-2332. Range for wild game animals.

46-2301. GRASS CONSERVATION ACT — COOPERATION WITH TAYLOR ACT. This act may be cited as the "grass conservation act." Its purpose is to provide for the conservation, protection, restoration, and proper utilization of grass, forage and range resources of the state of Montana, to provide for the incorporation of cooperative nonprofit grazing districts, to provide a means of cooperation with the secretary of the Interior as provided in the federal act known as the Taylor Grazing Act and any governmental agency or department having jurisdiction over lands belonging to the United States or other state or federal agencies as well as agencies having jurisdiction over federal lands to permit the setting up a form of grazing administration which will aid in the unification or control of all grazing lands within the state where the ownership is diverse and the lands intermingled and to provide for the stabilization of the livestock industry and the protection of dependent commensurate ranch properties as defined herein. The act provides a State Grass Conservation Commission to assist in carrying out the purposes of this act, to act in an advisory capacity with the state land board and county commissioners, and to supervise and coordinate the formation and operation of districts which may be incorporated under this act.

Operation and Effect

The district board of directors have the power to enter into agreements with the Federal government and subject the district to the limitations and regulation therein contained. Swanson & Plotts v. Buffalo Creek C. S. G. D. 1947.

History: En. Sec. 1, Ch. 208. L. 1939.

References:

State ex rel. Engle v. District Court, —M—, 174 P 2d 582.

Agriculture Key 1-3, 6.
3 C.J.S. Agriculture 2, 4, 6, 3-10, 25, 31, 38; C.J.S. Industrial Cooperative Societies s s 1-8.

46-2302. DEFINITIONS. The following words and phrases used in this act take the following interpretations:

1. "The Commission" means "the Montana Grass Conservation Commission."

2. "State District" means a nonprofit cooperative organization incorporated under the provisions of this act and its board of directors. "State District" also includes all lands, owned or controlled by the state district or its members.

3. "Range" is the land within a grazing district upon which grazing permits are granted to maintain livestock through the established grazing period.

5. "Grazing preference" is a right to obtain a grazing permit from a state district. It is attached to dependent commensurate property except as provided in this act.

6. "Secretary" means the state secretary to the State Grass Conservation Commission appointed under this act.

7. "Person" means natural person or persons, unincorporated associations, partnerships, corporations and governmental departments or agencies.

8. "Commensurate property" means land privately owned or controlled which is not range as herein defined.

9. "Dependent commensurate property" is commensurate property which requires the use of range in connection with it to maintain its proper use, and which produces or whose owner furnishes as part of his past customary practice the proper feed necessary to maintain livestock during the time other than the established grazing period on the range, and which has been used in connection with the range for a period of any three years or for any two consecutive years in the five-year period immediately preceding June 28, 1934; or in the case of districts organized after March 15, 1945, for a five (5) year period immediately preceding the date of organization of such districts.

10. "Animal unit" means one cow, one horse, or five sheep, six months old or over.

11. "Assessment" means a special levy imposed on permittee members by the state district to raise funds for specific purposes as provided in paragraph 6, section 46-2312. "Assessment" does not include fees.

12. All other words used herein shall receive the usual and ordinary interpretation.

Operation and Effect:

A district has the power to classify members' owned or controlled land as dependent commensurate, commensurate or range and has the further power to make deductions from the member's preference demand on district range; first, when the range land owned or controlled by the member was used in the establishment of prior use within the district and second, when the member leases or purchases range land owned or controlled by the district or its members. Abel v. Buffalo Creek C. S. G. D. 1947.

Horses run during base period of 1929-34 which were wintered on the range and not on base property of appellant cannot demand a priority of use as they were not run in connection with the base property. Forward v. No. Phillips County C. S. G. D. 1948.

Assessments levied by a district are proper and in accordance with the law when levied upon an animal unit basis and only upon the number of animal units of preference. Sult v. Williams Coulee C. S. G. D. 1952.

History: En. Sec. 2, Ch. 208. L. 1939;
Amd. Sec. 1. Ch. 199, L. 1945.

References:

State ex rel. et al v. District Court,
—M—, P. 2d 582, 585.

46-2303. MONTANA GRASS CONSERVATION COMMISSION — MEMBERSHIP AND TERMS. There is hereby created the Montana Grass Conservation Commission of the state of Montana which commission shall be composed of five members with the powers and duties specified in this act. Such members shall be appointed by the governor of the state and approved by the senate, for four-year terms or until their successor

are appointed and qualified; provided, however, three members of the first five appointed after the passage and approval of this act shall serve for terms as follows: One for a one-year term and one for a two-year term and one for a three-year term; at the expiration of these terms subsequent appointments except those filling vacancies in unexpired terms, shall be for four years. All regular terms of such members shall begin upon April first. The governor, giving full consideration to representation to large and small operators, shall appoint one representative member and livestock operator who is either an officer or a permittee member of an organized state grazing district, from each of the following groups:

(1) One member from the Montana Stockgrowers Association;

(2) One member from the Montana Woolgrowers Association;

(3) One member from the County Commissioners Association;

(4) One member from the cooperative state grazing districts, and the fifth (5th) member to be a person representing the general public familiar with the livestock industry. If a vacancy occurs on the commission, the Governor shall within 30 days, fill such vacancy for the unexpired term from the group from which said vacancy shall occur. Expired terms shall be filled by appointment from the group to which the retiring member belonged.

History: En. Sec. 3, Ch. 208. L. 1939
Amd. Sec. 1. Ch. 257. L. 1955.

46-2304. ANNUAL AND SPECIAL MEETINGS. The members of the commission shall meet annually at the state capitol on the third Monday in June at which meeting the Commisson shall select its officers who shall serve during the ensuing year, and may hold special meetings at such time and place as may be necessary, said meetings to be called by the chairman, or by a majority of the commission, upon at least five days notice to each commissioner and to the secretary, and to be held at the time and place specified in the call for the same. A majority of the members of the commission shall constitute a quorum for the transaction of any business which may come before it. The said commission shall keep a record of all business transacted by it. The chairman and the secretary of the commission shall sign all orders, minutes, or other documents of the commission.

History: En. Sec. 4, Ch. 208. L. 1939.

46-2305. SECRETARY — COMPENSATION. The Commission shall select and appoint a secretary at a salary of not to exceed five hundred dollars ($500.00) per month. The secretary shall be the executive officer of the Commission and shall be controlled and directed by the rules and regulations established by the commission from time to time and applicable to the duties of his office. The Commission shall fix the salary of the secretary.

History: En. Sec. 5, Ch. 208. L. 1939;
Amd. Sec. 1, Ch. 13. L. 1949; Sec. 1,
Ch. 124. L. 1953; Sec. 2, Ch. 257. L.
1955.

46-2306. COMPENSATION OF MEMBERS — AUDITING AND PAYMENT OF CLAIMS. The members of the commission shall receive no compensation for their services other than the actual amount of traveling expenses actually incurred in respect to the performance of their official duties in attendance at regular or special meetings of the board and ten dollars ($10.00) per diem for each day actually in attendance at such board meetings. The per diem of each member of the board shall be limited to not exceed the amount of five hundred dollars ($500.00) per year, such per diem and expenses to be audited, allowed and paid as herein provided.

The commission shall audit all claims, accounts or bills for expenses, per diem, or expenditures incurred by it or its employees. If the commission approves them, they shall be certified to the board of examiners of the State of Montana. When approved by such board, said claims, accounts or bills, shall be transmitted to the state auditor who shall thereupon draw a warrant upon the State Grass Conservation Fund in payment thereof; provided that the board may by resolution authorize the secretary to audit and certify all expenses, salaries, and expense accounts of the commission, or its employees, and such audit shall be made a part of the commissioners' report to the Governor, a copy of which shall be sent to all state districts coming under the provisions of this act.

History: En. Sec. 6, Ch. 208. L. 1939;
Amd. Sec. 1, Ch. 61. L. 1949.

46-2307. POWERS OF COMMISSION — STATE DISTRICTS AND GRAZING ASSOCIATIONS. The Montana Grass Conservation Commission shall have the powers enumerated by the act, and shall have such other and further powers as shall be necessary and incidental to fully carry out such enumerated powers, and shall also have such other and further powers as shall be necessary and incidental to fully carry out the purpose and intent of this act. The powers of the Montana Grass Conservation Commission shall include the power:

1. To prepare and standardize the various forms to be used by the state districts. To supervise or regulate the organization and operation of all state districts incorporated under this act, or grazing associations incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, in accordance with the provisions of this act. To require any grazing association claiming to be incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, but which has not completed its internal organization or not functioning, to complete its organization under this act within a reasonable time. In default thereof the commission may declare the said association dissolved and same shall be thereupon dissolved. In the event that any state district or the directors of any state district shall fail to comply with an order of the commission, said commission may order a hearing thereon within the district or county and cite said directors of said district to appear before said board; and if upon said hearing it appears that said board members refuse to perform the duties of their office as herein defined and as set forth in the articles of incorporation and the by-laws of said association, or refuse to comply with a lawful order of said commission, the members of said board of directors may be summarily removed from office, and thereupon said

district shall elect new officers. During such period until such new election the commission shall have the authority to operate and manage the affairs of such state district or to delegate such authority to the secretary or other suitable person or persons. The expense of operating and managing the affairs of a noncomplying state district shall be paid by such noncomplying state district before it can be reinstated.

In the event any state district organized under this act ceased to function and it appears to the commission that the reinstatement and future operation of such district is no longer feasible, beneficial and desirable to those who own or control more than fifty per cent (50%) of the lands included in such district, the commission, upon thirty (30) days notice in writing, to be published for two (2) consecutive weeks in a newspaper of general circulation in or nearest to said district, may declare such district dissolved and same shall thereupon be dissolved. A notice of dissolution shall be filed by the commission with the secretary of state and the clerk and recorder of the county or counties in which said district is located.

2. To issue citations directed to any person requiring his attendance before the commission, and to subpoena witnesses and pay such expenses as would be allowed in a court action.

3. To require any officer or director of a state district to submit any or all records of such state district to the commission for the purpose of aiding any investigation conducted by or under the authority of the commission or the secretary.

4. To delegate to the secretary or any one or more of its members the power and authority to hold hearings on any matters affecting the commission. The secretary or any such members so delegated shall make a full report of such hearings to the commission.

5. To require state districts to furnish itemized financial reports annually.

6. The commission shall have the power to hire or discharge employees and legal counsel; to fix their wages or salaries and to designate their duties, and may incur such other expenses as may be necessary for the proper performance of its duties and the exercise of its powers.

7. To fully cooperate and enter into agreements on behalf of a state district, with its consent, with any governmental sub-division, department, or agency, in order to promote the purposes of this act.

History: En Sec. 7, Ch. 208. L. 1939;
Amd. Sec. 2, Ch. 199. L. 1945.

NOTE—The statutes to which reference is made in Part 1 of the above section were all repealed by Sec. 32, Ch. 208, L. 1939.

46-2308. APPEALS FROM DECISIONS OF THE STATE DISTRICT TO COMMISSION—FROM COMMISSION TO DISTRICT COURT. Notice of the decision of any state district shall be given in writing by the secretary of such state district, to the interested parties or their attorneys by registered mail at the address as may be shown on the records of said district.

Anyone affected by the decision of the state district may take an appeal therefrom to the commission which shall have jurisdiction to hear and decide all such appeals. An appeal from the decision of such district to the commission may be taken by filing written notice of such appeal with the secretary of the commission and by filing a copy of such notice of appeal with the secretary of said district and by serving a copy of such notice of appeal by registered mail upon the interested parties who have appeared, or their attorneys within sixty (60) days after receiving written notice of the decision of the said district. The appellant shall also file with the secretary of the commission proof by affidavit of such filing and service of said notice of appeal. The appeal to the commission shall be taken and review thereof had upon the record of the hearing conducted and considered by the state district, provided, however, the commission may, at its discretion, and for good cause shown, permit additional testimony to be submitted, and the decisions of said commission shall contain findings of fact which shall be conclusive except for the right to a judicial review as hereinafter provided.

An appeal from the decision of said commission may be taken to the district court wherein a portion of lands in said district lies. An appeal to the district court may be taken by filing notice of appeal with said district court within thirty (30) days after the rendition of the decision by said commission and notice thereof given to the interested parties, or their attorneys, by registered mail, and executing and filing a bond to the commission in the sum of two hundred dollars ($200.00) with the surety to be approved by the secretary of the commission, conditioned to prosecute such appeal to effect and to pay all costs that may be adjudged against the appellant, costs to be taxed as in district court proceedings. Thereafter the said commission must file with the clerk of such district court a transcript of the record considered by the commission. Any person who chooses to become a member of any state district is bound by all the provisions of the Grass Conservation Act and is limited to the statutory remedies therein contained and no court shall have jurisdiction to consider any right claimed under such act excepting only by judicial review from the final decision of the commission as herein provided.

Operation and Effect:

The appeal period for the rejection of an application for grazing preferences filed in 1941 has long since expired by 1954. Fink v. Indian Butte C. S. G. D. 1954.

History: En. Sec. 8, Ch. 208, L. 1939; Amd. Sec. 3, Ch. 199, L. 1945; and Sec. 1, Ch. 163, L. 1953.

46-2309. INCORPORATION OF STATE DISTRICTS. Whenever three or more persons who own or control commensurate property and are livestock operators within the area proposed to be created into a state district, shall decide to incorporate a state district, they shall submit a statement in writing to the commission together with a plat showing the proposed boundaries of the area. Such statement shall set forth the name of the proposed state district; the county or counties in which such proposed state district is located; and the names and addresses of all operators of land and livestock units within said area. The commission may then require any additional information it may deem necessary. On re-

ceipt of said statement and plat and such additional information, the commission shall fix the time and place of a hearing for approval within the district or county which shall not be less than thirty days or more than sixty days after receipt of said statement. The persons deciding to incorporate said state grazing district shall then cause notice of said hearing to be given by publishing a notice prescribed by the commission once a week for two consecutive weeks, the first publication to be at least thirty days prior to the date of hearing, in a newspaper of general circulation in such area. The secretary, for and on behalf of the commission shall hear evidence offered in support of, or in opposition to the creation of said state district, and shall make a full inquiry into the advisability of the creation thereof; the record taken upon the hearing, together with the report of the secretary, shall be submitted to the commission. If the creation of said state district shall appear feasible, beneficial and desirable to those who own or control more than fifty per cent of the lands to be included in such district the commission may issue a certificate of approval.

History: En. Sec. 9, Ch. 208. L. 1939;
Amd. Sec. 4, Ch. 199. L. 1945.

46-2310. ARTICLES OF INCORPORATION, CONTENTS. Upon the issuance of the certificate of approval, three or more persons who own or control commensurate property and are livestock operators within or near the proposed state district may prepare articles of incorporation and file them in the offices of the secretary of state without payment of any fees; said articles to be accompanied by the said certificate of approval and to be signed, sealed, and acknowledged. Such articles as prescribed by the commission shall substantially state the following:

1. The name of the state district, the last four words of which shall be "cooperative state grazing district."

2. The county or counties in which said state district is located, and the place where the principal office and business of the state district will be conducted.

3. The membership fee for each member of the state district which shall not in any case be more than five dollars ($5.00).

4. The term for which said state district is incorporated, which shall not exceed forty years.

5. The names and residences of the persons who subscribe together with a statement that each owns or controls commensurate property and is a livestock operator within the proposed state district.

6. The powers of the state district, which must not be inconsistent with the provisions of this act.

7. The officers of the state district, their principal duties, and the principal duties of the board of directors.

8. The purpose for which the state district is incorporated. If the said articles subsequently comply with the requirements herein set forth and are accompanied by the certificate of approval, the secretary of state

shall issue to such state district a certificate of incorporation. All amendments to articles of incorporation shall also be filed by the secretary of state without charge.

History: En. Sec. 10, Ch. 208. L. 1939.

46-2311. MAP OR PLAT OF DISTRICT TO BE FILED. State grazing districts organized under this act shall, upon completion of their organization, file with the county clerk of each county in which their lands lie, a map or plat of the external boundaries of such state district so created and a copy of their articles of incorporation. Whenever the boundaries of a state district shall be changed, and such change approved by the commission, the state district shall file with the county clerk or clerks a map or plat indicating such changed boundaries. Whenever the articles of incorporation shall be amended, such amendment shall be filed with said county clerk or clerks. It shall be the duty of any person herding or in control of any livestock in the approximate vicinity of any state districts to ascertain the boundary lines thereof.

History: En. Sec. 11, Ch. 208. L. 1939.

46-2312. POWERS OF STATE DISTRICTS. Each state district organized under this act shall have the power:

1. To purchase or market livestock and livestock products, to purchase supplies and equipment. Such supplies may include among other things grass, grass seed, or forage, whether attached to and upon or severed from the land.

2. To sue or be sued in its corporate name.

3. To acquire forage producing lands by lease, purchase, cooperative agreements, or otherwise either from the United States, the state of Montana, county or counties in which said lands are located, or from private owners. All lands to which a state district may acquire title may be disposed of by exchange, sale or otherwise.

4. To manage and control the use of its range. This power shall include the right to determine the size of preferences and permit according to a fixed method which shall be stated in the by-laws and which shall take into consideration the rating of dependent commensurate property and the carrying capacity of the range, and may be subject to reservations, regulations and limitations under the terms of agreements between the state district and any agency of the United States. It shall also include the power to allot range to members or non-members, and to decrease or increase the size of permits if the range carrying capacity changes.

5. To acquire or construct fences, reservoirs, or other facilities for the care of livestock, and to lease or purchase lands for such purposes.

6. To fix and determine the amount of grazing fees to be imposed on members or non-members for the purpose of paying leases, and operating expenses. To fix and determine assessments and the amount thereof, to be made on members on an animal unit basis for the purpose of acquiring lands by purchase, or for the purpose of constructing improvements in said state district.

7. To specify the breed, quality, and number of male breeding animals which each member must furnish when stock is grazing in common in the state district.

8. To employ and discharge employees, riders, and other persons necessary to properly manage the state district.

9. To set up and maintain a reasonable reserve fund.

10. To borrow money, and if necessary mortgage the physical assets of a state district to provide for operation and development, provided that at least eighty per cent of the permittee members of the state district consent in writing to such borrowing and such borrowing has been approved by the state grass conservation board; provided, however, that nothing herein contained shall be implied as conferring power upon any state district to mortgage the property of the individual members of the district.

11. To change the boundaries of a district, to merge with another state district organized under this act, or to subdivide.

(a) No such merger shall be made unless consented to by a majority of the members of each merging district, and approved by the commission.

(b) And no subdivision shall be made unless consented to by a majority of the members in the affected area and approved by the commission.

12. To regulate the driving of stock over, across, into, or through the range, and to collect fees therefor. To impose sanitary provisions, regulations and practices.

13. To undertake reseeding and other approved conservation and improvement practices of depleted range areas or abandon farm lands and enter into cooperative agreements with the federal government or an agency thereof or any other party or parties for such reseeding or conservation and improvement practices.

14. To do and perform any and all other acts in conformity with the provisions of this act, or incidental or necessary for the purpose of carrying out the full purpose and intent of this act.

History: En. Sec. 12, Ch. 208. L. 1939.

Operation and Effect:

Where the action of a grazing district in classifying owners of grazing preference was a clear violation of the grazing act and no question of administrative discretion was involved a proceeding in mandamus was proper as against contention that the court was taking over the duties of the district. State ex rel. Engle v. District Court, —M—, 174 P. 2d 582, 586.

It is the particular duty of the district to manage and control the use of its range and to allot range among the members according to their preferences and the facts prevailing. Etchart Ranch v. Badlands C. S. G. D. 1951, see also Stovall v. Buffalo Creek C. S. G. D. 1949.

Action of district in establishing a sheep allotment for appellant clearly within their powers to manage and control the use of the range. Sult v. Williams Coulee C. S. G. D. 1952.

That district acted arbitrarily in causing appellant to give up his individual allotment and issue him grazing privileges at some distance from his headquarters and in common with others, and

That it is not necessary for district to control solid block of range in order to establish an individual allotment, so long as there is sufficient district controlled grazing capacity available for the livestock permitted. James v. Buffalo Creek C. S. G. D. 1951.

Action of district in developing range line agreements and determining grazing privileges thereby is consistent with the purposes of the Grass Conservation Act and in signing, the signers relinquished any claims to grazing privileges in other areas. Wesen v. Badlands C. S. G. D. 1955.

Appellant had no vested right to continuous use of certain district lands allocated to him on a temporary basis subject to his complying with the terms of an agreement and the district was within its power in controlling the use of the lands in question to deny appellant further use thereof. DeMessemaker v. No. Valley County C. S. G. D. 1950.

The Board of Directors are under no obligation to satisfy additional requests for temporary grazing permits after the deadline specified for such applications has expired. Forward v. No. Phillips County C. S. G. D. 1950.

The Board of Directors have the power to enter into agreements with the Federal government and subject the district to the limitations and regulations therein contained. Swanson & Plotts v. Buffalo Creek C. S. G. D. 1947.

The "Basic Policies Agreement" of 1944 between the SCS, Grazing Service and the Commission is based entirely upon the Grass Conservation Act, being primarily a clarification of such provisions and the legal effect of such agreement is not dependent upon ratification by the membership, and

A district has the power to classify members' owned or controlled land as dependent commensurate, commensurate or range and has the further powers to make deductions from the member's preference demand on district range; first, when the range land owned or controlled by the member was used in the establishment of prior use within the district and second, when the member leases or purchases range land owned or controlled by the district or its members. Abel v. Buffalo Creek C. S. G. D. 1948. See also: Burke v. So. Phillips County C. S. G. D. 1955.

Permittees may be allowed to run livestock belonging to others providing the applicant can show proof of an equitable interest in the increase of the livestock in question and provided such livestock are run from the base property of the applicant for a 12 consecutive month period. Practice of running others' livestock for the grazing season only or for some cash amount per season or per month is not condoned. Fink v. Indian Butte C. S. G. D. 1954.

It is the particular duty of the district to determine that the reasonable needs of members owning or controlling dependent commensurate property are filled before converting temporary permits to preference. Sibbert v. Flatwillow C. S. G. D. 1952.

District's action in adjusting preferences to carrying capacity of range as shown by range survey clearly within the powers of the district. Manuel v. Williams Coulee C. S. G. D. 1956.

The reduction of appellant's preference to the commensurate rating of his base property is entirely within the powers of the district. Burke v. So. Phillips County C. S. G. D. 1955.

Understandings which appellant had with personnel of government agencies and which are not approved or discussed with board of directors are not binding upon the district. Jones v. Prairie County C. S. G. D. 1951.

District's practice of charging grazing fees upon the entire preference without any reduction for self-furnished range controlled by the permittee individually is incorrect. Hunter v. Willow Creek C. S. G. D. 1953.

The grazing preference formerly appurtenant to appellant's base property was lost through failure of appellant's predecessor to obtain either a grazing permit or a non-use permit during the years he held the base property. Busenbark v. Winnett C. S. G. D. 1953.

District controlled lands acquired by appellant prior to his becoming a member of the district and the holder of a grazing preference do not reduce any preference he might subsequently acquire within the district. Sult v. Williams Coulee C. S. G. D. 1952.

46-2313. POWERS AND DUTIES OF DIRECTORS. The directors of the state district shall manage and exercise the powers of such state district subject to its by-laws and to the regulation of the commission as provided in his act.

History: En. Sec. 13, Ch. 208. L. 1939.

46-2314. MEMBERSHIP IN DISTRICT. Membership in the district is limited to persons, partnerships, corporations and associations engaged in the livestock business who own or lease forage producing lands within or near the district except that the agent of any person, association, partnership or corporation entitled to membership in the district, may become a member in place of his principal. If any agent becomes a member his qualifications for membership and his obligations to and the privileges in the district shall be measured by those his principal would have had if he had elected to become a member. No agent and his principal shall both be members of the district unless such agent has individual qualifications for membership which are separable from and independent of those of his principal. Permittee members only shall be entitled to vote on all issues submitted to a vote of the members. No such member shall have more than one vote. Voting by proxy shall not be permitted. All members who possessed preferential grazing permits during the preceding grazing season or who possess such a permit at the time of voting shall be designated as permittee members.

When any member shall dispose of a part of the lands or leases owned by him so that another shall become the owner of such lands or leases and acquire right to membership, then the rights and interests involved shall be determined by the directors of the state district with the approval of the commission.

Preferences or rights under this act through the creation of the district or the issuance of permits or preferences or statutory and shall not create any vested right, title, interest or estate in or to the lands owned or controlled by the district excepting as herein provided.

History: En. Sec. 14, Ch. 208, L. 1939;
Amd. Sec. 2, Ch. 163. L. 1953.

Operation and Effect:

The acquisition of property formerly owned by a recognized member in good standing entitled appellant to right to membership in district. Murphy v. Wayne Creek C. S. G. D. 1942.

The reduction of appellant's district range allocation in the amount of the carrying capacity of the land controlled by appellant's wife was proper under the circumstances wherein they conducted a partnership ranching operation as man and wife and should be considered as one operation. Hunter v. Willow Creek C. S. G. D. 1953.

The granting of a preference and/or the issuance of permits within a cooperative state grazing district does not confer upon the preference holder any vested right to any particular area or tract of range. Tempero v. Buffalo Creek C. S. G. D. 1957.

46-2315. BY-LAWS. Each state district incorporated under this act shall within sixty (60) days after its incorporation adopt by-laws approved by the commission. Such by-laws may be amended or revised with the approval of the commission.

History: En. Sec. 15, L. 1939 (Ch. 208).

Operation and Effect:

The incorporation of a provision into the district by-laws authorizing a penalty for members whose livestock are found in trespass authorizes the board of directors to apply the provision whenever it is deemed necessary. Fail v. Williams Coulee C. S. G. D. 1957.

46-2316. DISTRICT MUST LEASE AVAILABLE STATE LAND. Any state land situated within the boundaries of any grazing district created by this act, not otherwise disposed of by the state board of land commissioners, must be leased by such grazing district at a reasonable rental, when offered for lease to the officers of such grazing district by the state board of land commissioners; provided however, that the officers of such grazing district may appear or submit evidence in writing before the state board of land commissioners and show reason and cause for a change in such rental. If such cause there be, the state board of land commissioners may cause a reappraisal of the land in question. It shall be the duty of the grass conservation commission to require that all state districts comply with this section.

History: En. Sec. 16, Ch. 208. L. 1939.

46-2317. COMMISSION TO ADVISE BOARD OF LAND COMMISSIONERS AND COUNTY COMMISSIONERS. The Montana Grass Conservation Commission may act in an advisory capacity to the state board of land commissioners and board of county commissioners for the purpose of working out uniform plans for the use of lands lying within or without the boundaries of grazing districts in conformity with recognized conservation and stabilization policies.

History: En. Sec. 17, Ch. 208. L. 1939.

46-2318. INCORPORATED GRAZING ASSOCIATIONS MUST CONFORM TO THIS ACT — AMENDING ARTICLES OF INCORPORATION. All grazing associations incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, shall within six months amend their articles of incorporation and their by-laws to conform with the provisions of this act. Any district organized hereunder or any district or grazing association organized under prior laws as described in this section may amend its articles of incorporation by a two-thirds vote of all members present at any regular or special meeting of its members and the approval of the commission; the only notice of such meeting which is necessary is the notice of meetings of members as required by the by-laws of such district or association. Such amended articles of incorporation and by-laws shall be submitted to the commission for approval. Upon approval, the commission shall issue its certificates of approval. Such amended articles of incorporation shall be filed by the secretary of state without charge, but shall not be filed unless accompanied by such certificate of approval. Upon the filing of such amended articles with the secretary of state and the proper county clerk or clerks, such association or district shall possess the same powers and shall be subject to the same obligations as if incorporated under this act. Any association refusing to comply with the provisions of this section or failing to so comply within the time provided in this section may be dissolved by an order of the commission.

History: En. Sec. 18, Ch. 208. L. 1939.

NOTE—The statutes to which reference is made in the above section were all repealed by Sec. 32, Ch. 208, L. 1939.

46-2319. MIZPAH PUMPKIN CREEK GRAZING DISTRICT. No territory included within the Mizpah Pumpkin Creek grazing district shall be included within a state district unless such Mizpah Pumpkin Creek grazing district shall approve and recommend an application to such state grazing district for the inclusion of such territory.

History: En. Sec. 19, 208, L. 1939.

46-2320. DISTRIBUTION OF GRAZING PREFERENCES. When a state district is organized, grazing preferences shall be distributed in the following manner: Any member of a state district owning or controlling dependent commensurate property as heretofore defined may be given a grazing preference. If the carrying capacity of the range exceeds the reasonable needs of the members owning or controlling dependent commensurate property, members owning or controlling commensurate property shall have the preference. If the carrying capacity of the range exceeds the reasonable needs of the members owning or controlling dependent commensurate property or commensurate property, temporary grazing permits may be issued to nonmembers, or members preferring those that have used the range for any three or any two consecutive years in the five-year period immediately preceding June 28, 1934; or, in the case of districts organized after March 15, 1945, preferring those that have used the range for five (5) years immediately preceding the organization of such districts. When such temporary permit is utilized by a permittee in

connection with forage producing lands owned or controlled by such permittee within or near the district for a period of any combination of four years out of five, then the forage producing lands owned or controlled by such permittee may be considered dependent commensurate property, and upon application, the district may accordingly grant such permittee membership and preference in districts providing an application has been made for temporary rights for each of the five years. Provided, however, such temporary permits shall at all times be merely privileges granted from year to year, and their possession shall in no event establish a preference right unless such preference right be expressly granted by the district and in the manner herein provided.

If reductions in grazing privileges become necessary, operators with temporary permits will be reduced first on a proportionate basis. When the extent of reduction of privileges exceeds that of temporary permits, then the rights of operators with both dependent commensurate property and commensurate property shall be reduced together on a proportionate basis.

History: En. Sec. 20, Ch. 208. L. 1939.
Amd. Sec. 5, Ch. 199. L. 1945; Sec. 3, Ch. 163. L. 1953.

Operation and Effect:

Action of grazing district in classifying all owners of classes 1 and 2 grazing preferences as temporary permittees and issuing 1946 grazing permits on that basis so that plaintiffs who had a class 1 preference appurtenant to their land for the grazing of 206 animal units were granted only a temporary permit for grazing of 152 animal units for 1946, was a clear violation of the Grazing Act. State ex rel. Engle v. District Court, —M—, 174 P. 2d 582, 586.

The granting of temporary permits is a matter to be determined by the district and not the Commission as it is a year to year determination and subject to many fluctuating conditions. Busenbark v. Winnett C. S. G. D. 1953.

The preference accorded those who have used the range during the priority period in the granting of temporary permits is not limited to those that have used a particular area exclusively during such period, but is construed as giving such preference to all holders of preferences based upon dependent commensurate property over holders of commensurate property only. Burke v. So. Phillips County C. S. G. D. 1955. See also: Wesen v. Badlands C. S. G. D. 1955.

The issuance of temporary permits is dependent upon there being an excess of range after the reasonable needs of members owning or controlling dependent commensurate and commensurate property are first met Langen v. Badlands C. S. G. D. 1947. See also: Sibbert v. Flatwillow C. S. G. D. 1952.

Tax records are not necessarily the determining factor in the establishment of preferences or qualifications of membership. Swanson & Plotts v. Buffalo Creek C. S. G. D. 1947.

A district has the power to classify members' owned or controlled land as dependent commensurate, commensurate or range and has the further power to make deductions from the member's preference demand on district range; first, when the range land owned or controlled by the

member was used in the establishment of prior use within the district and second, when the member leases or purchases range land owned or controlled by the district or its members. Abel v. Buffalo Creek C. S. G. D. 1947.

Grazing preferences cannot be established at the present time (1954) unless the applicant can show possession of a temporary grazing permit issued by the district for any four years of a five year period. Fink v. Indian Butte C. S. G. D. 1954.

Horses run during the base period of 1929-34 which were wintered on the range and not on the base property of appellant cannot demand a priority of use as they were not run in connection with the base property, and

That the Cooperative Agreement and Plan of Proposed Conservation Operations entered into between appellant and respondent in cooperation with the Soil Conservation Service has no bearing on preferences established by the district for appellant. Forward v. No. Phillips County C. S. G. D. 1948.

46-2321. APPLICATION FOR GRAZING PREFERENCES. Any person entitled to grazing preferences within any state grazing district based on dependent commensurate property or commensurate property must make application one year after the passage of this act to qualify for said preference; or in the case of state districts hereafter organized, must make application within one year after said district shall have been organized to qualify for said preference; provided, however, all permittees shall be entitled to benefits accruing under amended section 46-2320.
History: En Sec. 21, Ch. 208. L. 1939
Amd. Sec. 6, Ch. 199. L. 1945.

Operation and Effect:

That application is necessary to establish a grazing preference and must be made within one year after creation of the district or passage of the Grass Conservation Act. Langen v. Badlands C. S. G. D. 1947. See also: Clausen v. Pole Creek C. S. G. D. 1946; Liese & VanVoast v. No. Phillips County C. S. G. D. 1948; Jones v. Prairie County C. S. G. D. 1951; Fink v. Indian Butte C. S. G. D. 1954.

46-2322. GRAZING PREFERENCES APPURTENANT TO DEPENDENT COMMENSURATE PROPERTY AND COMMENSURATE PROPERTY AND METHOD OF TRANSFERRING PREFERENCES TO OTHER LANDS. Grazing preferences shall run with and be appurtenant to, the dependent commensurate and commensurate property upon which they are based. They shall not be subject to devise, bequest, attachment, execution, lease, sale, exchange, transfer, pledge, mortgage, or other process, or transaction, except as provided in this section or in the by-laws of a state district. Upon application by a permittee, the state district with the approval of the Grass Conservation Commission may allow a preference based on ownership or control of dependent commensurate or commensurate property to be transferred to other property owned or controlled by the permittee of sufficient commensurability, provided that in any transfer of preference from dependent commensurate or commensurate property controlled but not owned by applicant, the applicant must have had

control and use of the dependent commensurate or commensurate property and the preference appurtenant thereto, for five (5) consecutive years and must have established and maintained the livestock operation upon which the dependency was established by use or priority immediately prior to the application for transfer. Provided further, that such transfer will not interfere with the stability of livestock operations or with proper range management and will not affect adversely the established local economy, and provided further, that no such transfer will be allowed without the written consent of the owner or owners and any encumbrances of the dependent commensurate or commensurate property from which the transfer is to be made and provided further, that such transfer shall not in any case become effective until approved by the Grass Conservation Commission. The provision of the section shall not be construed to apply to trespass violations.

When such application is presented to the board the secretary upon the direction of the board shall give notice thereof, setting forth in general said application and the time and place of hearing thereon as fixed by the board, and a copy of said notice shall be given or mailed to the applicant and shall be published for at least once a week for two successive weeks prior to such meeting in a newspaper published or generally circulated within the district, and said notice shall also be posted for at least two full weeks prior to such meeting in three (3) public places within said district, and the date of hearing must be at least fifteen (15) days from the first publication of said notice, and at such hearing the directors shall fully hear and determine such application and objections thereto if any.

Upon the allowance of a transfer under this section, the property from which the transfer is made shall lose its grazing preference to the extent of the preference transferred.

All expenses involved under the application shall be borne by the applicant.

When the land to which a preference is attached shall change its control or ownership such preference shall change with the land, provided, that the person to which such control or ownership changes shall secure a non-use permit or shall pay the usual grazing fees. If such person fails to secure such non-use permit or refuses to pay such grazing fees, the preferences may be revoked by the state district. If any person controls but does not own land and does not secure a non-use permit and refuse to pay grazing fees, the state district shall notify the owner of such land by registered mail that the preference attached to such land will be revoked unless such owners shall pay the usual grazing fees to the state district within sixty (60) days from the time of receipt of such notice. The state district may revoke such preference if the owner or mortgagor does not pay such fees or secure a non-use permit.

If any permittee fails to pay grazing fees or assessments levied by the state district, or fails to obtain a non-use permit or violates any of the rules and regulations of the state district, the state district may notify such permittee and owner of such land by registered mail that the preference attached to such land will be revoked unless such grazing fees and assessments are paid or such permittee ceases to violate the rules and regulations laid down by the district within sixty (60) days from the time of

receipt of such notice. The state district may revoke such preference if the permittee or owner fails to pay such charges or make such compliance.

When a preference is revoked, it shall be detached from the dependent commensurate or commensurate property to which it was formerly appurtenant. The preference shall immediately shift to the state district. The state district may then allocate it to either dependent commensurate or commensurate property in the manner provided by its by-laws.

In all cases where notices are given permittees under this act by registered mail and addressed to the post office address of such permittee as shown by the records of such grazing district such notices shall be deemed received by the permittee when deposited in the United States post office by the district or by the commission.

History: En. Sec. 22, Ch. 208, L. 1939: Amd. Sec. 4, Ch. 163. L. 1953.

References: State ex rel. Engle et al v. District Court, —M—, 174 P. 2d 582, 585.

Operation and Effect:

The grazing preference formerly appurtenant to appellant's base property was lost through failure of appellant's predecessor to obtain either a grazing permit or a non-use permit during the years he held the base property. Busenbark v. Winnett C. S. G. D. 1953.

46-2323. SUBSEQUENT LESSEES TO COMPENSATE DISTRICT FOR RANGE IMPROVEMENTS. Subsequent lessees or owners of land shall compensate a state district for the value of range improvements constructed with the consent of the owner, upon lands leased by the state district. Such value shall be the value at the expiration date of the lease. In the event that the owner and the state district cannot agree as to such value, the state district may either remove or abandon such improvement. In the event that the subsequent lessee and the state district cannot agree as to such value, it shall be fixed by the commission.
History: En. Sec. 23, Ch. 208. L. 1939.

46-2324. PERMITTEE MEMBER RECEIVES SHARE OF SURPLUS ASSETS, WHEN. Whenever a state district shall possess reserves the value of which are greater than its liabilities and the state district shall determine that a part of such reserves is in excess of its reasonable needs to operate the district such state district may refund to the permittee members their proportionate share of such reserves as determined at the last annual accounting. Whenever a state district shall possess reserves and physical assets, the values of which are greater than its liabilities and a permittee member shall lose his grazing preference, he shall be entitled to receive his proportionate share of the value of such excess from the state district, as determined by the annual accounting of the state district. The state district may set off the amount of any claim it may have against such former member.

Whenever a new member shall receive a grazing preference, he shall, as a condition of receiving such preference, pay to the state district

the value of the equitable interest in the physical assets and reserve fund which accrues to him by virtue of such membership. Such value shall be determined at the time of receiving such preference, and upon the basis of the determination of value of such physical assets and reserves made at the last annual accounting.

History: En. Sec. 24, Ch. 208. L. 1939.
Amd. Sec. 5, Ch. 163. L. 1953.

46-2325 DISSOLUTION OF DISTRICT. A state district with the written consent of three-fourths of its permittee members may at any time request the commission for the dissolution of the state district. When such consent has been given, the directors shall distribute the assets of the state district, either in items of property or in cash or in both. Distribution shall first be made to creditors up to the amount of their claims, providing, that a distribution of any property must be with the consent of the commission. Distribution shall then be made to permittee members upon the basis of their proportionate interest in such assets, provided that a distribution of any property must be with the consent of the commission. If assets must be liquidated, the directors shall offer such assets for sale at public auction after publication of a notice of such sale once a week for two successive weeks in a newspaper of general circulation within the state district. A final report of all dissolution proceedings shall be made to the commission by the directors. Upon the approval of such report by the commission, it shall order such state district dissolved.

History: En. Sec. 25, Ch. 208. L. 1939
Amd. Sec. 6, Ch. 163. L. 1953.

46-2326. RUNNING LIVESTOCK AT LARGE OR IN HERD WITHOUT PERMIT FORBIDDEN—LIABILITY OF OWNER—PENALTY—PROCEDURE —RELEASE TO OWNER. (1) No owner or person in control of livestock shall permit the same to run at large, or under herd, within the exterior boundaries of any state district, unless the owner or person in control of such livestock shall first obtain a grazing permit for same from such state district; and the owner or person in control of such livestock running at large, or under herd, within a state district, without a permit from the district, or in excess of such permit, shall be liable for all damages sustained thereby by any member, permittee or state district. If any such livestock wrongfully enters upon premises within such district, the owner or person in control of such trespassing livestock, who willfully or negligently permits same to run at large within the district, without first obtaining a permit therefor from the district, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by fine not less than ten dollars ($10.00), nor more than five hundred dollars ($500.00), and in addition to said punishment, shall be liable for all damages sustained thereby to the party entitled thereto; provided that this provision shall not require any person to obtain a grazing permit to graze livestock upon land owned or controlled by him within such state district, if the stock so grazed is restrained from running at large within such state district and from grazing upon any other lands within the state district.

(2) The state district or its duly authorized agent controlling the land upon which such wrongful entry is made by trespassing livestock, may take into its possession such livestock and shall reasonably care for same while in its possession and may retain possession of said livestock and have a lien and claim thereon as security for payment of such damages and reasonable charges for the care of said livestock while in its possession and may retain possession of said livestock and have a lien and claim thereon as security for payment of such damages and reasonable charges for the care of said livestock while in its possession. The state district taking up such livestock shall, within seventy-two (72) hours after taking possession thereof, notify said owner, owners, or person in charge thereof, by a notice in writing, describing said livestock by number of animals and brands thereon, if any, the amount of damages claimed to date, and the charge per animal unit per day for caring for and feeding the same thereafter, such charges not to exceed fifty cents (50c) per animal unit per day, and describing by general description, the location of the premises upon which said livestock is held, and requiring such owner or owners, within ten (10) days after receiving said notice, to take said livestock away after making full payment of all damages and costs of said livestock.

(3) In case the parties do not agree as to the amount of damages, the state district taking up such livestock, may, at the expense of the owner, retain a sufficient amount of such livestock to cover the amount of damages claimed by the state district. Provided, however, that the owner may, upon furnishing a good and sufficient bond, conditioned for the payment to the state district of all sums, including costs that may be recovered by said state district in a civil action to forclose its lien, have returned to him of all livestock held as aforesaid, and said state district shall be liable to such owner for any loss or injury to said livestock accruing through the state district's lack of reasonable care. If the state district taking up livestock shall fail to recover in a civil action a sum equal to that offered to the state district by the owner of the livestock the former shall bear the expense of keeping and feeding same while in its possession. Such notice may be given by personal service on the said owner, owners or person in charge thereof, or by leaving said notice at his usual place of residence with some member of his family over the age of fourteen (14) years, or by sending said notice by prepaid registered mail, addressed to his last known place of residence. Said service by registered mail shall be deemed complete upon the deposit of said notice in the post office.

(4) Upon demand, the state district or its authorized agent controlling the land, or party in charge of such livestock, shall release and deliver possession of such livestock to the owner or person entitled thereto, upon payment of damages and charges; but said payment of damages and charges shall not act as a bar to the prosecution of said person, owner or persons in control of such livestock, as hereinbefore provided. If the amount of damages or costs demanded by the party taking up such livestock is in excess of the actual damage and actual costs, the owner or person in charge of such livestock, may pay same under protest and thereafter sue to recover the amount paid in excess of the actual damages and reasonable costs, provided suit to recover same is filed in the district court within sixty (60) days after payment.

(5) If after due diligence to discover the owner or possessor of such livestock, such owner or possessor can not be found, or the ownership of such livestock discovered, the state district taking up such livestock, or said owner or claimant shall refuse to pay the amount of damages or charges, or furnish bonds therefor, as herein provided, the party taking up such livestock shall, within ten (10) days from the time that said livestock was taken up, deliver to the sheriff or a constable of the county in which the livestock was taken up, a statement containing the information required to be given in the notice hereinbefore set out, and in addition thereto, he shall mail, by prepaid registered mail, a copy of said statement addressed to the nearest state livestock inspector. Upon receipt of such statment, the sheriff or constable shall proceed to advertise and sell, at public auction, the livestock so taken up.

(6) Such livestock shall be sold on five (5) days' notice posted at the courthouse of each county in which any portion of the district lies and posted in three (3) public places in such county, one of which shall be within the district. Provided, however, that such sheriff may require from the state district a good and sufficient bond, conditioned that the state district has used reasonable diligence to discover the owner of such stock and to notify him in the premises and that all requirements of law on the part of the state district to be performed in the premises have been performed and indemnifying the sheriff against all liability for the sale of said livestock except as to his own failure to perform the things required of him by law.

(7) The proceeds of the sale shall, by the sheriff, after first deducting his costs and expenses, be applied to the discharge of the claims and the costs of the proceedings in selling the property and to the payment of the damages, claims and costs of the party taking up such livestock, and the remainder, if any, may be paid over to the owner of such livestock, if known, and if the owner is not known, then such remainder shall be deposited with the county treasurer, who shall keep the same in a public fund to be designated state grazing district fund (giving the name of the district). A separate fund, styled as above, shall be kept by the county treasurer for each of said districts within his county. The county treasurer shall make a record of the number and type of animals sold and the brands on same, if any, the amount received for same and the amount of deductions, which record shall be open to public inspection; and any person making claim to the board of county commissioners at any time within one year from date of sale, of ownership of such livestock and submitting proof of ownership to such board, with such claim to the satisfaction of such board, shall be entitled to receive such excess received from the sale of such livestock. Any money received from the sale of any such livestock, which shall not be so claimed within one (1) year after such sale, shall, at the expiration of said period, be transferred to the general fund of the county.

(8) No officer, board or employee of any county or of any state district, nor any employee of such officer or board shall be liable for any act performed in good faith in discharging official duties under this act; and all such acts shall be presumed to have been in good faith and in conformity with this act.

(9) The state district, or the party taking up such trespassing livestock, may cause same to be impounded at any suitable place within the state district, or within five (5) miles from the exterior boundaries thereof, and such livestock shall be deemed legally impounded if placed in a corral or upon land enclosed by a legal fence or placed in charge of a herder or herders.

(10) Any person taking or rescuing from the possession of a state grazing district or an agent thereof any animal taken up and impounded pursuant to this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding two hundred dollars ($200.00).

(11) Regarding fences within the external boundaries of state districts; the cost of construction and maintenance of fence enclosing lands controlled by any member, non-member or state district within the external boundaries of such state district, shall be borne by such member, non-member or state district, unless otherwise provided for in the duly approved By-Laws of such state district.

(12) In the event of the adoption of provisions to the By-Laws of a state district whereby the cost of construction and maintenance of fence is to be distributed proportionately among the parties affected by such cost of construction and maintenance of fence, the state district's proportionate share of such costs and maintenance shall be financed only by assessements levied by the state district against the permittee members of the district upon consent thereto by fifty-five percentum (55%) of such permittee members.

(13) Nothing contained herein shall be so construed as to restrict the right of parties to obtain injunctive relief from a court of competent jurisdiction.

History: En. Sec. 26, Ch. 208. L. 1939;
Amd. Sec. 7, Ch. 199. L. 1945; Sec. 4,
Ch. 257, L. 1955.

Operation and Effect:

Permittees may not run additional livestock on another's permit without permission of the district, and

Allowing livestock to run within the exterior boundaries of a state district without first obtaining a grazing permit is clearly trespass. Abel v. Buffalo Creek C. S. G. D. 1947.

Livestock allowed to run in an area other than that designated by the District is clearly trespass, and

The incorporation of a provision into the district by-laws authorizing a penalty for members whose livestock are found in trespass authorizes the board of directors to apply provision whenever it is deemed necessary. Fail v. Williams Coulee C. S. G. D. 1957.

Allotments of range within a district are made annually and are based upon written applications of members showing exact numbers of livestock to be run within the district and the description of any privately controlled range claimed by applicant which lies in common with district lands and upon which he expects to graze livestock.

Abel v. Buffalo Creek C. S. G. D. 1947.

Applies where livestock wilfully driven upon lands:

This subdivision applies to cases where livesotck is wilfully driven upon the property within the external boundaries of the district, either for the purpose of grazing the stock, there or for the purpose of crossing the land with the stock. McKee v. Clark, 115 M 438, 442, 144 P. 2d 1000.

Construction:

This subdivision applies only when the grazing is done upon land owned or controlled by the district, without regard of whether or not the land is fenced or whether the animals merely stray thereon or are driven upon it; where animals trespass upon unfenced land of a non-member or permittee of a grazing district, and there is no evidence that they were herded upon the land or of overstocking of neighboring land and consequent trespass upon lands of others, the open range law applies. McKee v. Clark, 115 M 438, 442, 144 P. 2d 1000.

GIVES THE RIGHT TO IMPOUND TO DISTRICT, NOT TO INDIVIDUAL. The owner of unfenced ranch lands located within the exterior boundaries of a state grazing district, who is neither a member nor a permittee of the district, and upon whose property livestock trespassed has no right to impound the animals nor to recover damages for the trespass and compensation for their care and feed during the time impounded, in his action to forclose the lien upon the animals granted by Sec. 46-1410, this chapter giving the right to impound to the district, not to an individual placed as was plaintiff. McKee v. Clark, 115 M 438, 441, 144 P. 2d 1000.

46-2327. REMEDIES ARE SUPPLEMENTAL. This act shall not be interpreted to repeal or abolish any other legal remedies, which a member, a permittee or a state district may now have against trespassing livestock, or the owner or persons in control thereof and the remedies provided by this act are additional and supplemental to the remedies provided by any other laws of the State of Montana.

History: En. Sec. 8, Ch. 199. L. 1945.

46-2328. SAVING PROVISION RELATIVE TO THOSE IN ARMED SERVICES. Nothing contained in this act shall be held to suspend or remove any privileges and immunities which may be granted to those in the armed services of the United States as provided in what is commonly known as the Soldiers and Sailors Civil Relief Act of 1940, as amended, for the period of his or her service and for a period of six (6) months thereafter.

History: En. Sec. 9, Ch. 199. L. 1945.

46-2329. GRAZING PERMITS TO OWNERS OF LAND NOT CONTROLLED BY DISTRICT. When any land is situated within the boundaries of a state district and is not leased or controlled by said district and not surrounded by a legal fence, any person owning or controlling such lands shall have the right to obtain a grazing permit from the state district, the size of which shall be determined by the carrying capacity of such land, full consideration being given for location of necessary stock water. The use of such permit shall be subject to all regulations by the

state district. If the person owning or controlling such land declines to secure such permit, or fails to lease such land to the state district at a fair lease rental and fails to fence such land at his own expense, he shall not be entitled to recover damages, for trespass by stock grazing under permit, but the state district shall not issue a permit to use the carrying capaciy of such land. Farming lands lying within the external boundaries of a state district shall be protected by the owner or lessee to the extent of a legal fence as described in Subsection (1) of section 46-1401. The state district or its members shall not be liable for damages unless such farming lands are protected by a sufficient fence as described in this Section.

History: En. Sec. 27, Ch. 208. L. 1939.

References:
McKee v. Clark, 115 M. 438, 144 P. 2d 1000.

Operation and Effect:

Allotments of range within districts are made annually and are based upon written applications of members showing exact numbers of livestock to be run within the district and the description of any privately controlled range claimed by applicant which lies in common with district lands and upon which he expects to graze livestock, and

Allowing livestock to run within the exterior boundaries of a state district without first obtaining a grazing permit is clearly trespass. Abel v. Buffalo Creek C. S. G. D. 1947.

46-2330. STATE GRASS CONSERVATION FUND. There is hereby created a fund to be known as the State Grass Conservation Fund, which shall consist of funds as may be appropriated by the state legislature and placed to the credit of such fund. Any funds in the state grazing fund as created by Chapter 194, Laws of 1935, are hereby transferred to the State Grass Conservation Fund created by this act. However, upon application filed within twelve (12) months after the passage and approval of this act by any district electing not to come under the provisions of this act the proportionate part of the fees remaining within this present state grazing fund shall be refunded to said noncooperating grazing district.

History: En. Sec. 28, Ch. 208. L. 1939.

NOTE: Ch. 194, L. 1935, referred to above was repealed by Sec. 32, Ch. 208, L. 1939.

46-2331. FEES MAY BE IMPOSED BY COMMISSION AGAINST DISTRICTS. The State Grass Conservation Commission shall have authority and right to impose such fees against the several state grazing districts of the State of Montana and in an amount not in excess of five cents (5c) per animal unit based upon the number of animal units per year for which the district grants permits, to defray any or all expenses created by the State Grass Conservation Commission, and said State Grass Conservation Commission shall from such fees and collections repay to the state treasurer of Montana any and all appropriations provided by the

State of Montana for the establishment of this commission and the administration of this act when so collected. When such appropriation by the State of Montana is repaid, the balance of such funds shall be held in the State Grass Conservation Fund, therein created to be expended by order and direction of the State Grass Conservation Commission for the further administration of the commission, and thereafter said commission shall be maintained by funds obtained from the livestock fees hereinbefore provided. If any state districts fails or refuses to pay such fee or fees on or before the first day of May of each year, and after such district shall have been provided with a full report from the commission of all moneys collected and expended by it for its fiscal year next preceding that date, the commission shall have authority to compel and levy, collection and payment by writ of mandate or other appropriate remedy against said state district.

History: En. Sec. 29, Ch. 208. L. 1939.

46-2332. RANGE FOR WILD GAME ANIMALS. In each state district a sufficient carrying capacity of range will be reserved for the maintenance of a reasonable number of wild game animals, to use the range in common with livestock grazing in the district. The Montana Grass Conservation Commission may act in an advisory capacity to the State Fish and Game Commission in the protection of wild-life within the boundaries of all grazing districts. The Montana Grass Conservation Commission shall encourage the transfer of beaver from streams where they are doing damage to other streams where they are needed.

History: En. Sec. 30, Ch. 208, L. 1939.

Federal Agreements

FEDERAL—STATE COOPERATIVE GRAZING DISTRICTS AGREEMENT

This Agreement is entered into under the provisions of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) as amended, and the Montana Grass Conservation Act, Chap. 23 Rev. Code Mont. (1947), by and between the.....Cooperative State Grazing District, located in Federal Grazing District Montana No....., County of....., State of Montana, a non-profit grazing district incorporated under the laws of Montana, hereinafter referred to as the State District, and the United States Department of the Interior, Bureau of Land Management, hereinafter referred to as the Bureau. It is mutually agreed:

I. The purpose of this Agreement is to provide, through the cooperation of the signing parties in accordance with the terms and conditions hereof, for the protection, administration, regulation and improvement of the Federal land subject hereto, and to bring about improved coordination of use of such Federal land, of State District controlled lands and of privately owned lands used in connection therewith.

II. The Area covered by and made subject to this agreement shall include all lands owned or controlled by the United States and administered by the Bureau for grazing purposes, hereinafter referred to as Federal land and grazing lands owned, leased, or otherwise controlled by the State District, hereinafter referred to as State District lands, situated within the exterior boundaries of the area delineated on the map attached hereto and made a part hereof.

III. The Bureau agrees:

1. To establish and fix, in cooperation with the State District, the grazing capacity of the Federal and District land and to assist the State District in the preparation and execution of a range management, protection and development plan for both the Federal and District land.

2. To issue to the State District an annual license or term permit for the grazing privileges that may be utilized on the Federal land by the State District's licensees and permittees.

3. To certify to the State District annually or for a term of years a list of applicants who would be qualified and entitled under the Federal Range Code for Grazing Districts (43 CFR 161) to use the Federal land hereunder and the extent of grazing privileges to which each is entitled.

4. To notify the State District each year on or before February 1, of the annual fee to be paid to the Bureau for the use of the Federal land. Such notice will specify the time and manner of payment and how the fee was determined. In determining the fees to be paid the United States, the Bureau will take into consideration the estimated reasonable cost to the District to fulfill adequately the management and maintenance responsibilities under this agreement.

5. To perform such range improvement and maintenance work on Federal lands as may be jointly determined by the Bureau and the District to be necessary or desirable.

6. To furnish technical assistance as may be necessary and available for the planning of overall conservation, development and maintenance programs involving Federal land, District controlled land and privately controlled lands within the State District.

7. To issue Section 4 range improvement permits to, or to enter into cooperative agreements with the State District, or its licensees or permittees. Applications for Section 4 permits or proposed cooperative agreements shall be referred to the State District by the Bureau of Land Management for the views and recommendations of the State District, but final determination on such applications or cooperative agreements shall be by the Bureau of Land Management in accordance with the provisions of the Federal Range Code. Provided that whenever, in the opinion of the District Manager, prompt action upon an application for Section 4 permit is urgent, the District Manager may require the State District to make its recommendation to him within such period of time, but not less than 30 days, as the District Manager shall allow, in which case the recommendation may be made on behalf of the State District by the Chairman of the State District or by any member or members of the Board designated by the Chairman.

IV. The State District agrees:

1. To use or permit the use of the Federal land for grazing purposes in accordance with Article III of this Agreement, and shall fix, subject to the approval of the Bureau, the numbers and kinds of livestock to be grazed thereon not in excess of the grazing capacity and the seasons of use.

2. To purchase, lease, or otherwise acquire control of such State, County, tax-default and privately owned lands, suitable for use for grazing purposes as may be obtainable.

3. To pay all grazing fees, including range improvement fees, prescribed by the Bureau, due for the use of the Federal land at the time and in the amount specified by the Bureau.

4. To issue in accordance with its by-laws and upon such standard forms as the parties hereto may approve annual licenses or term permits not extending beyond the term of any permit issued under Article III, Section 1, to graze upon the lands subject to this Agreement, in such amounts and to such applicants, who, regardless of membership in the State District, have been certified under Article III, Section 3: Provided that such license or permit may be for the use of grazing lands other than Federal land or a portion thereof; and shall require that the utilization of such grazing privileges be in accordance with good range management.

5. To permit any such certified applicant to become a member of the State District and to exercise all the rights and privileges of

membership upon compliance with the Articles of Incorporation, charter and by-laws thereof.

6. To make and levy assessments upon its membership to pay the proper general expenses of the State District; provided also, that the State District may refuse to issue licenses or permits to any certified applicant who fails or refuses to pay grazing fees or assessments properly due the State District, or to abide by its rules, regulations or by-laws.

7. To inform the Bureau of the extent of Federal land grazing privileges utilized, by means of a copy of the licenses or permit showing the name of the user, the class and number of livestock permitted, the period of use, and the range allotted at the beginning of the grazing season.

8. To maintain in good condition all improvements constructed on the Federal land hereunder, responsibility for which has been accepted by the State District as shown on the attached list of improvements or additions thereto and which is made a part hereof, and to make all repairs and replacements necessitated by ordinary deterioration, damage, use, negligence, or any other cause whatsoever, except major damage or destruction caused by the violent forces of nature, provided that where the cause of such damage or destruction is in dispute, determination of such cause shall be made by the Bureau, and such determination shall be final.

9. To take all necessary steps to protect the Federal land subject to this Agreement from overgrazing and improper use, including the cancellation, upon request of the Bureau or upon its own initiative, of the grazing privileges of any licensee or permittee misusing the Federal land or violating any provisions of the Federal Range Code.

10. To cooperate through its licensees and permittees with Federal, State and local agencies in the prevention, detection, suppression and control of fires damaging or threatening the Federal lands or improvements thereon.

V. The Rules and regulations and by-laws of the State District, approved by the Montana Grass Conservation Commission, shall apply and be in force in the administration of the Federal land provided they do not deny to any certified applicant any grazing privileges to which he would otherwise have been entitled under the Federal Range Code.

VI. Recognizing that prompt and vigorous handling of trespasses is essential to the protection of the range lands hereunder from abuse, it is mutually further agreed:

1. The State District shall diligently prosecute all grazing trespassers upon the Federal land in accordance with the provisions of Title 46, Chap. 23, Revised Code Mont. (1947), as amended, and shall collect trespass damages as well as damages to any Government improvements on the land, including the institution of civil action to collect damages if necessary.

2. The State District shall report promptly to the Bureau all trespasses committed on the Federal land, and the action taken by the State District in connection therewith.

3. That nothing herein shall preclude the rights of the United States to fully protect the Federal land covered by this agreement and all Federal improvements thereon and all appurtenances belonging thereunto, against trespass or otherwise in accordance with with any applicable law or regulation.

VII. It is further understood that:

1. The United States may enter upon the Federal land at any and all times, for the purpose of conducting Governmental business or activities and shall have the right to use, lease or permit the use of parts of the surface for uses other than grazing, and for prospecting, mining, removing coal-gas-oil, fissionable materials and other minerals or natural resources.

2. The LU lands are subject to withdrawal as well as transfer of title by land exchange. The vacant public domain lands are subject to all forms of application for disposal, location and entry under the Public Land Laws.

3. The District, in its performance of this agreement shall impose no discrimination against any employee, applicant, licensee or permittee because of race, creed, color or natural origin and shall include on all subcontracts a provision imposing a like obligation upon subcontractors.

4. The United States shall be held harmless from all loss, expense, liability or other obligation of any nature arising out of any accident or occurrence causing injury to persons or property and due directly or indirectly to the use and management of the Federal land and improvements.

VIII. This Agreement shall first be approved by the Montana Grass Conservation Commission and such approval endorsed thereon. This agreement shall be in force for a term of.....year(s) from the date hereof.

IX. 1. This Agreement may be terminated by mutual consent of either party upon six (6) months prior written notice to the other; provided that, the Bureau, if it seeks termination, shall provide upon request of the State District, for a hearing to be held thereon at a time and place convenient to the members of the State District at least sixty (60) days prior to the expiration of the six (6) months notice. Terminaion of this Agreement or extension thereof shall not become effective during a recognized summer grazing season.

2. Upon termination of this Agreement all State District lands and improvements constructed thereon with non-Federal funds shall be and remain the property of the State District; improvements on such lands constructed with Federal funds shall be disposed of as provided by the agreement under which the said funds were expended; improvements

constructed upon Federal land with all or part Federal funds shall belong entirely to the United States; improvements constructed upon Federal land under Section 4 of the Taylor Grazing Act with non-Federal funds shall be disposed of as provided by the Act and the Federal Range Code.

3. This agreement supersedes the previous agreements heretofore entered into between the State District and the United States concerning the administration and management of the Federal lands designated in

1. SCS Lease Agreement Date:.....
2. SCS Management Plan Date:.....
3. Federal-State Cooperative Grazing Districts Agreement Date:.....

SIGNED:

.....
Cooperative State Grazing District

.....
President

.....
Secretary

APPROVED:

.....
Chairman, Montana Grass Conservation Commission

UNITED STATES OF AMERICA
Bureau of Land Management

By .....

.....
(Title)

Date .....

THE FOLLOWING MEMORANDUM OF UNDERSTANDING WAS ENTERED INTO BY THE COMMISSION AND THE U. S. FOREST SERVICE IN 1956 WITH RESPECT TO THE ADMINISTRATION OF LU AND STATE DISTRICT CONTROLLED LANDS, AND SUPERCEDES THE BASIC POLICIES AGREEMENT OF 1944. THE AGREEMENT REMAINS IN EFFECT ALTHOUGH LANDS ARE NOW ADMINISTERED BY THE BUREAU OF LAND MANAGMENT.

Memorandum of Understanding

In order to provide for the coordination of use of the Title III lands and State District controlled lands within the boundaries of Cooperative State Grazing Districts in accordance with the terms and conditions of the Lease Agreement and the Montana Grass Conservation Act, it is mutually agreed between the U. S. Forest Service and the Montana Grass Conservation Commission that with reference to:

I. ALLOCATION OF GRAZING PRIVILEGES.

Grazing privileges will be granted to members of the State Grazing District first, for dependent commensurate property and second, for commensurate property. If there is additional grazing available above that necessary to satisfy the first two classes, then temporary permits will be issued in accordance with Section 46-2320 R.C.M. 1947, provided, however, there is no conflict in said section of the State law with the regulations applicable to Title III grazing lands. The annual rate of stocking of the range lands in grazing districts may increase and decrease with variations in climate and management and members' grazing permits will increase and decrease in line with the available grazing resource. Benefits resulting from the efforts of permittees toward good range management and conservative grazing will accrue to such individuals or groups of permittees making such efforts and utilizing such lands; provided that temporary permits shall be issued and additional charges shall be made by the district for the stock so permitted.

Any person owning or controlling lands situated within the boundaries of a state district not leased or controlled by said district and not surrounded by a legal fence shall have the right to obtain a grazing permit from the district, the size of which shall be determined by the carrying capacity of such land, full consideration being given for the location of necessary stock water. The use of such permit shall be subject to all regulations by the state district. In the event range controlled by the District or its members is purchased or leased by another member of the district, then such member's preference demand on district range will be reduced in the amount of the carrying capacity of the land so purchased or leased.

Applications for permits for livestock not actually owned by the applicant may be considered by the state district upon a showing of proof by such applicant of an equitable interest or share in the increase of the livestock in question; provided, however, that said livestock are run from

the base property of the applicant for a twelve (12) consecutive month period, thereby making substantial use of the applicant's base property as well as the grazing lands allocated by the district. The practice of running outside livestock for the grazing season only or for some cash amount per month or per season will not be allowed.

II. TRESPASS.

Grazing trespass actions within state grazing districts shall be the responsibility of the state district with the close cooperation of the Forest Service. The detection of trespass violation by the cooperating Federal agency shall be promptly reported to the Secretary of the State District by such agency.

III. TRANSFERS.

Applications for transfer of grazing preferences from dependent commensurate or commensurate property under the provisions of Section 46-2322 R.C.M. 1947, within state grazing districts will be jointly considered by the state grazing districts and the Forest Service before final action is taken by the Commission.

IV. MANAGEMENT PLANS.

The Forest Service and the Montana Grass Conservation Commission, subject to legal, fiscal and other limitations respectively governing each, will jointly and collectively work together to accomplish the objectives set forth in the respecitve acts under which they have prescribed responsibilities. They will cooperate fully and freely in the exchange of information relative to the improvement, management and development of range lands and associated crop lands in areas of mutual interest, and will encourage appropriate arrangements for collaboration and cooperation in the solution of problems of mutual concern for the conservation, improvement and protection of lands under the jurisdiction of both Federal and State agencies signatory hereto.

Range Managers of the Forest Service and Boards of Directors of State Grazing Districts will jointly consider and develop plans and programs for the accomplishment of their mutual objectives in: determining appropriate seasons of use, rates of stocking, needed range improvement and management facilities including stockwater, fences, range reseeding and general range rehabilitation; protection of resources from fire, damage by rodents and predators, protection of watersheds and effective coordination of uses of range lands and resources by livestock and game animals.

This Memorandum of Understanding shall not limit or restrict the authority or responsibility of the Forest Service in connection with the proper administration of the Federally owned lands, or the Montana Grass Conservation Commission or its District Boards of Directors in connection with state district controlled lands as set forth under the governing laws under which each operates. This Memorandum of Understanding shall become effective upon the date it is formally entered into by all signa-

tories hereto and shall remain in effect until terminated by one of the agencies by serving notice upon the other at least thirty (30) days in advance of the proposed termination.

APPROVED:

5 Dec. '56 (Sgd.) LEWIS C. ARCHAMBEAULT
Chairman, Montana Grass
Conservation Commission

10/26/56 (Sgd.) C. S. CROCKER
Regional Forester
U. S. Forest Service

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